IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Bail Appl..No. 3800 of 2007()

CRIME NO.89/07 OF KELAKAM POLICE STATION

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PETITIONER : ACCUSED

EDAVANNA RAJESH, S/O.JOSEPH
EDAVANNA HOUSE, KANICHAR AMOM,
ATTAMCHERY, TALASSERY TALUK
KANNUR DIST.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS: COMPLAINANT

STATION HOUSE OFFICER
KELAKAM (KANNUR DIST.) POLICE STATON
REP: BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3800 of 2007

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Dated this the 25th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Essential Commodities Act r/w. the relevant provisions of the Liquid Petroleum Gas (Regulation of Supply and Distribution) Order, 2000. The crux of the allegations against the petitioner is that at 8.15 p.m. on 21.5.2007 he was found filling and selling L.P.G. in small cylinders contrary to the provisions of the Act and the Rules. The accused allegedly ran away from the spot when he was about to be apprehended. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and that anticipatory bail may be issued in his favour.

2. The learned Prosecutor opposes the application. Having considered all the relevant inputs, I do not find any reason why the extra ordinary equitable discretion under Section 438 Cr.P.C. can or ought to be invoked in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and regular

procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek bail in the ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary.

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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